

United States District Court

NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

V.

SHOLOM RUBASHKIN

JUDGMENT IN A CRIMINAL CASE

Case Number: CR 08-1324-2-LRR

USM Number: 10755-029

Guy R. Cook

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☒ was found guilty on count(s) 73 through 143, 145 through 152, 156 through 161, and 163 of the
after a plea of not guilty. Seventh Superseding Indictment filed on 07/16/2009

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1344	Bank Fraud	09/04/2007	73
18 U.S.C. § 1344	Bank Fraud	10/01/2007	74
18 U.S.C. § 1344	Bank Fraud	11/01/2007	75
18 U.S.C. § 1344	Bank Fraud	12/03/2007	76
18 U.S.C. § 1344	Bank Fraud	01/02/2008	77
18 U.S.C. § 1344	Bank Fraud	02/01/2008	78
18 U.S.C. § 1344	Bank Fraud	03/03/2008	79

Continued on following page


The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☒ The defendant has been found not guilty on count(s) 144, 153-155, and 162 of the Seventh Superseding Indictment
- ☐ Counts _____ is/are dismissed on the motion of the United States.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material change in economic circumstances.

June 22, 2010

Date of Imposition of Judgment


Signature of Judicial Officer

Linda R. Reade

Chief U.S. District Court Judge

Name and Title of Judicial Officer

June 22, 2010
Date

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1344	Bank Fraud	04/01/2008	80
18 U.S.C. § 1344	Bank Fraud	05/01/2008	81
18 U.S.C. § 1344	Bank Fraud	06/02/2008	82
18 U.S.C. § 1344	Bank Fraud	07/01/2008	83
18 U.S.C. § 1344	Bank Fraud	08/01/2008	84
18 U.S.C. § 1344	Bank Fraud	09/02/2008	85
18 U.S.C. § 1344	Bank Fraud	10/07/2008	86
18 U.S.C. § 1014	False Statements and Reports to a Bank	09/04/2007	87
18 U.S.C. § 1014	False Statements and Reports to a Bank	10/01/2007	88
18 U.S.C. § 1014	False Statements and Reports to a Bank	11/01/2007	89
18 U.S.C. § 1014	False Statements and Reports to a Bank	12/03/2007	90
18 U.S.C. § 1014	False Statements and Reports to a Bank	01/02/2008	91
18 U.S.C. § 1014	False Statements and Reports to a Bank	02/01/2008	92
18 U.S.C. § 1014	False Statements and Reports to a Bank	03/03/2008	93
18 U.S.C. § 1014	False Statements and Reports to a Bank	04/01/2008	94
18 U.S.C. § 1014	False Statements and Reports to a Bank	05/01/2008	95
18 U.S.C. § 1014	False Statements and Reports to a Bank	06/02/2008	96
18 U.S.C. § 1014	False Statements and Reports to a Bank	07/01/2008	97
18 U.S.C. § 1014	False Statements and Reports to a Bank	08/01/2008	98
18 U.S.C. § 1014	False Statements and Reports to a Bank	09/02/2008	99
18 U.S.C. § 1014	False Statements and Reports to a Bank	10/07/2008	100
18 U.S.C. § 1014	False Statements and Reports to a Bank	May 2008	101
18 U.S.C. § 1014	False Statements and Reports to a Bank	02/29/2008	102
18 U.S.C. § 1014	False Statements and Reports to a Bank	03/27/2008	103
18 U.S.C. § 1014	False Statements and Reports to a Bank	04/18/2008	104
18 U.S.C. § 1014	False Statements and Reports to a Bank	05/20/2008	105
18 U.S.C. § 1014	False Statements and Reports to a Bank	07/02/2008	106
18 U.S.C. § 1014	False Statements and Reports to a Bank	August 2008	107
18 U.S.C. § 1014	False Statements and Reports to a Bank	09/03/2008	108
18 U.S.C. § 1014	False Statements and Reports to a Bank	October 2008	109
18 U.S.C. § 1014	False Statements and Reports to a Bank	October 2008	110
18 U.S.C. § 1343	Wire Fraud	09/04/2007	111
18 U.S.C. § 1343	Wire Fraud	10/01/2007	112
18 U.S.C. § 1343	Wire Fraud	11/01/2007	113
18 U.S.C. § 1343	Wire Fraud	12/03/2007	114
18 U.S.C. § 1343	Wire Fraud	01/02/2008	115
18 U.S.C. § 1343	Wire Fraud	02/01/2008	116
18 U.S.C. § 1343	Wire Fraud	03/03/2008	117
18 U.S.C. § 1343	Wire Fraud	04/01/2008	118
18 U.S.C. § 1343	Wire Fraud	05/01/2008	119
18 U.S.C. § 1343	Wire Fraud	06/02/2008	120
18 U.S.C. § 1343	Wire Fraud	07/01/2008	121
18 U.S.C. § 1343	Wire Fraud	08/01/2008	122
18 U.S.C. § 1343	Wire Fraud	09/02/2008	123
18 U.S.C. § 1343	Wire Fraud	10/07/2008	124

Continued on next page

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1341	Mail Fraud	02/29/2008	125
18 U.S.C. § 1341	Mail Fraud	03/27/2008	126
18 U.S.C. § 1341	Mail Fraud	04/18/2008	127
18 U.S.C. § 1341	Mail Fraud	05/20/2008	128
18 U.S.C. § 1341	Mail Fraud	07/02/2008	129
18 U.S.C. § 1341	Mail Fraud	August 2008	130
18 U.S.C. § 1341	Mail Fraud	09/03/2008	131
18 U.S.C. § 1341	Mail Fraud	October 2008	132
18 U.S.C. § 1341	Mail Fraud	October 2008	133
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	08/09/2007	134
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	09/19/2007	135
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	10/17/2007	136
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	11/14/2007	137
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	12/11/2007	138
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	01/15/2008	139
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	02/26/2008	140
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	03/18/2008	141
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	04/15/2008	142
18 U.S.C. § 1956	Money Laundering and Aiding and Abetting	05/13/2008	143
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/15/2008	145
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/25/2008	146
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/25/2008	147
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/19/2008	148
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/19/2008	149
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	02/26/2008	150
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	03/04/2008	151
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	03/04/2008	152
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	03/07/2008	156
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	03/25/2008	157
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	04/02/2008	158
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	04/02/2008	159
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	04/05/2008	160

Continued on next page

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	04/09/2008	161
7 U.S.C. §§ 193 and 195	Willful Violation of Order of Secretary of Agriculture and Aiding and Abetting	04/21/2008	163

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **324 months. This term of imprisonment consists of a 324-month term imposed on each of Counts 73 through 110, a 240-month term imposed on each of Counts 111 through 143, and a 60-month term imposed on each of Counts 145 through 152, 156 through 161, and 163 of the Seventh Superseding Indictment, with all terms of imprisonment to run concurrently with each other.**

- ☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant be designated to a Bureau of Prisons facility that can best accommodate his religious preferences and is as close to the defendant's family as possible, commensurate with the defendant's security and custody classification needs.
That the defendant participate in a Bureau of Prisons' Vocational Training Program specializing in an area
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **5 years. This term of supervised release consists of a 5-year term imposed on each of Counts 73 through 110 and a 3-year term imposed on each of Counts 111 through 143, 145 through 152, 156 through 161, and 163 of the Seventh Superseding Indictment, with these terms of supervised release to be served concurrently with each other.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the U.S. Probation Office:

- 1) **The defendant must pay any financial penalty that is imposed by this judgment.**
- 2) **The defendant must provide the U.S. Probation Office with access to any requested financial information.**
- 3) **The defendant must not incur new credit charges or open additional lines of credit without the approval of the U.S. Probation Office unless the defendant is in compliance with the installment payment schedule.**
- 4) **The defendant must not accept or maintain any employment in which the defendant would have access to money or assume a fiduciary position. Further, the defendant must allow the defendant's probation officer to notify the defendant's employer of the defendant's current criminal status.**
- 5) **The defendant must participate in a mental health evaluation and/or treatment program. The defendant must take all medications prescribed to the defendant by a licensed psychiatrist or physician.**

Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant

Date

U.S. Probation Officer/Designated Witness

Date

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 8,600 (paid)	\$ 0	\$ 26,852,152.51

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
First Bank Business Capital, Incorporated 11901 Olive Boulevard Suite 160 St. Louis, MO 63141		\$18,525,362.88	2
MB Financial Bank 6111 North River Road No. 800 Rosemont, IL 60018-5111		\$8,322,989.12	2
Waverly Sales Company, Incorporated 2212 Fifth Avenue NW P.O. Box 355 Waverly, Iowa 50677-0355		\$3,800.51	1

TOTALS \$ _____ \$ 26,852,152.51

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☒ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: **SHOLOM RUBASHKIN**
CASE NUMBER: **CR 08-1324-2-LRR**

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

A ☒ Lump sum payment of \$ 26,852,152.51 due immediately, balance due

☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:

While incarcerated, the defendant shall make monthly payments in accordance with the Bureau of Prison's Financial Responsibility Program. The amount of the monthly payments shall not exceed 50% of the funds available to the defendant through institution or non-institution (community) resources and shall be at least \$25 per quarter. If the defendant still owes any portion of the financial obligation(s) at the time of release from imprisonment, the defendant shall pay it as a condition of supervision and the U.S. Probation Officer shall pursue collection of the amount due, and shall request the Court to establish a payment schedule if appropriate. The defendant shall also notify the United States Attorney within 30 days of any change of mailing or residence address that occurs while any portion of the financial obligation(s) remains unpaid.

Nothing about the monthly payment prevents the prosecutor from collecting under all other able means under the statute.

The \$ 8,600 special assessment was paid on 06/17/2010, receipt # IAN110004465.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ **Joint and Several**

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant's restitution obligation to FBBC and MBFB shall be joint and several with the restitution amounts of any other defendant ordered to make restitution in Northern District of Iowa Docket Nos. CR 09-1013-1-LRR and CR 09-1019-1-LRR.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.